

Sep 21, 2018

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

v.

EDUARDO GABRIEL DANIEL,

Defendant.

No. 2:18-CR-00152-RMP-1

ORDER DENYING DEFENDANT'S
MOTION FOR
RECONSIDERATION OF
DETENTION

MOTION DENIED
(ECF No. 27)

At Defendant's September 21, 2018, detention review hearing, Defendant was present, in custody, with counsel Bevan Maxey. Assistant U.S. Attorney Caitlin A. Baunsgard appeared for the United States. Both sides presented argument.

The Court has considered the Pretrial Services Report, ECF No. 34, Defendant's Memorandum in Support of Release, ECF No. 30, the United States' Memorandum in Response, ECF No. 31, and the argument of counsel.

At the time of the hearing, the United States invoked the 18 U.S.C. § 3142(e) presumption that no condition or combination of conditions can assure Defendant's appearance in Court and the safety of the community, because Defendant is charged with a drug trafficking offense for which the maximum punishment is ten years or more.

1 The United States argued that, if released, Defendant would pose a risk of
2 flight and a danger to the community. Specifically, the United States asserts that
3 Defendant is a danger to the community because a firearm was found at the
4 residence where he was arrested, and because he has a history of conviction for
5 distributing drugs, including: a federal conviction for possession with intent to
6 deliver at age 19, a conviction for conspiracy to possess with intent to distribute in
7 state court at age 22, and another federal conviction for conspiracy to distribute
8 drugs at age 23 in Nebraska, netting a 120 month sentence.

9 The United States also points to the strength of the evidence in the instant
10 case, to include numerous controlled buys, and Defendant's post arrest statements
11 to the effect that he has been distributing heroin, oxycodone, and
12 methamphetamine in the Spokane area for approximately six years, and has traded
13 firearms for drugs. The United States also objects to the proposed release address
14 for Defendant, noting that he proposes to reside or otherwise associate with a
15 potential witness in this case.

16 Defendant argues that he has employment with his mother, an apartment she
17 has rented for him, that his presence in Spokane for the last six years represents
18 significant ties to the community, and that he has remained in Spokane and
19 available to law enforcement for some months after learning he would be charged.

20 Pursuant to 18 U.S.C. § 3142, this Court has taken into account the nature
21 and circumstances of the offense charged, the weight of the evidence against the
22 Defendant, as well as Defendant's history and characteristics, including character,
23 physical and mental condition, family ties, employment, financial resources, length
24 of residence in the community, community ties, past conduct and history relating
25 to alcohol and drug abuse, and also criminal history, record concerning appearance
26 at court proceedings, whether Defendant was under supervision at the time of the
27 alleged offense, and the nature and seriousness of the danger to the community
28 posed by Defendant's release.

1 This Court finds there is probable cause Defendant has committed an offense
2 for which a maximum term of imprisonment of ten years or more is prescribed
3 under the Controlled Substances Act, 21 U.S.C. § 801-904, which invokes a
4 rebuttable presumption that no conditions or combination of conditions will
5 reasonably assure the safety of the community, or defendant's appearance for
6 further proceedings.

7 The Court further finds the United States has established by the required
8 preponderance of evidence an absence of conditions or combination of conditions
9 that would reasonably assure this Defendant's presence for further proceedings,
10 and has established by clear and convincing evidence that no condition or
11 combination of conditions would reasonably assure the safety of the community

12 **IT IS ORDERED** the Defendant's Motion for Reconsideration, **ECF No.**
13 **27**, is **DENIED**. Defendant shall remain in the custody of the U.S. Marshal
14 pending disposition of this case or further order of the court, pursuant to the
15 requirements ordered at ECF No. 14.

16 **IT IS SO ORDERED.**

17 DATED September 21, 2018.

A handwritten signature in black ink, appearing to read "M", is positioned above the judge's name.

JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE